

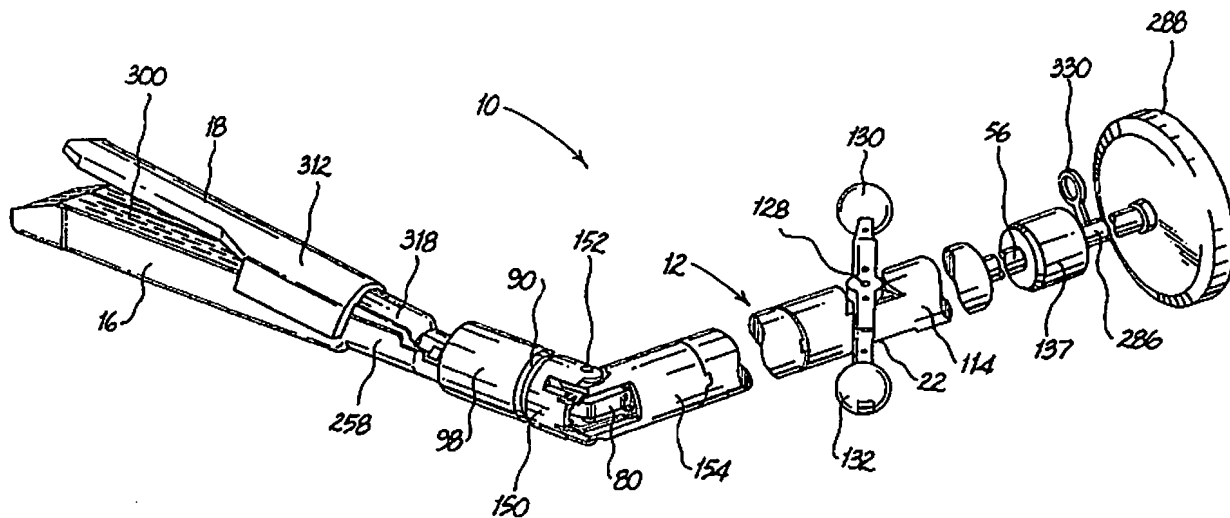
REMARKS

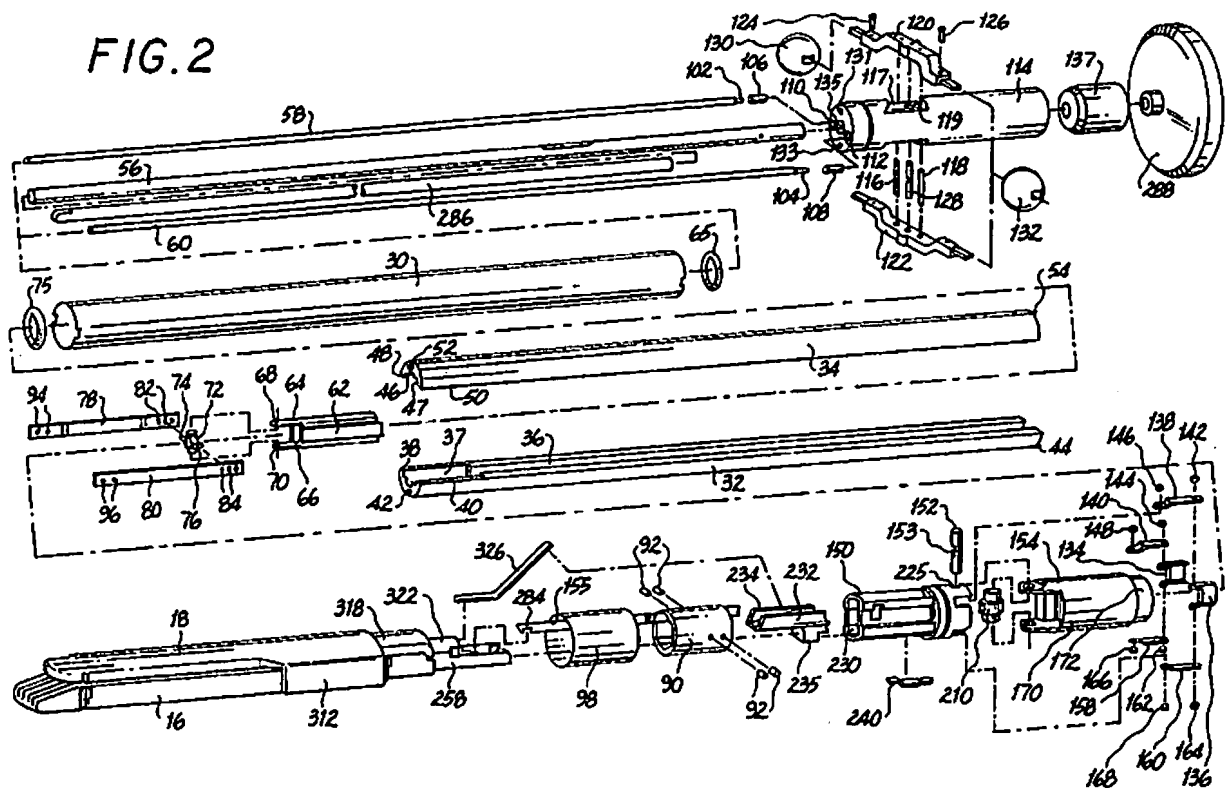
amendments and remarks to follow, allowance of this application is respectfully requested.

In the Advisory Action, the Examiner maintained her rejections from the previous Office Action (mailed on October 22, 2008). That is, Claims 32-36 and 39-41 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. patent No. 5,485,952 (“Fontayne”) in view of U.S. patent No. 5,865,361 (“Milliman”) and in view of U.S. patent No. 5,897,562 (“Bolanos”).

Fontayne discloses an apparatus 10 for applying surgical fasteners shown in FIG. 8 reproduced below which includes a cartridge housing 16, an anvil member 18 and a collar tube 90. Collar tube 90 is movable via a links 78 and 80 (FIG. 2) into a cam surface 318 formed on anvil member 18 to move the anvil member 18 into approximation with cartridge housing 16.

FIG. 8

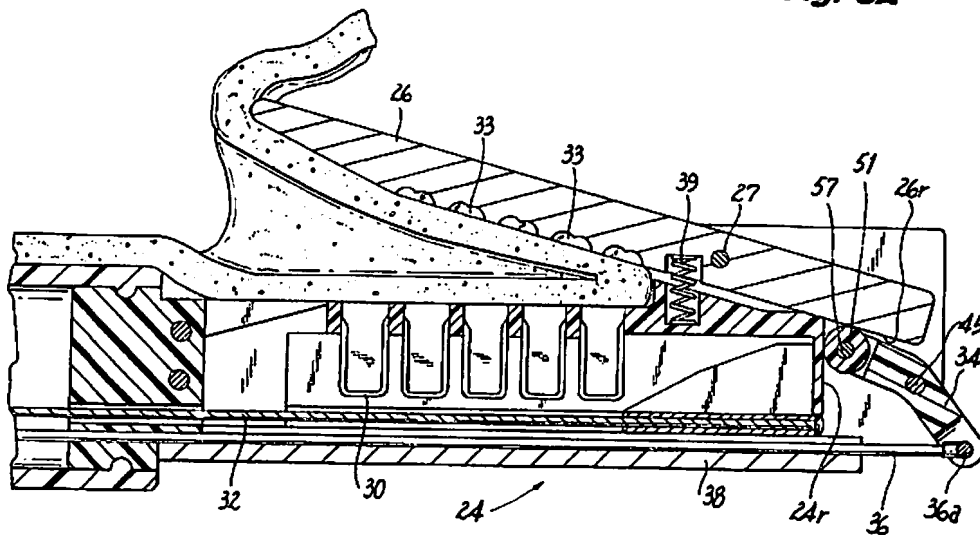




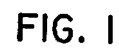
Bolanos discloses a non-invasive apparatus shown in FIGS. 1, 3, 4 and 6A reproduced below which includes a staple cartridge 24 and an anvil 26. A roller assembly 34 includes a roller member 51. Roller assembly 34 is movable in a proximal direction via a wire or rod 36 to pivot anvil 26 towards staple cartridge 24. Staple ejectors 28 are linked to moveable trigger 20 by elongate firing cables 32 that are secured to staple ejectors 28 at one end, and are secured at the other end to pulleys 48. Additionally, proximal movement of the trigger 20 causes staple ejectors 28 to be moved proximally. (Column 5, lines 23-36.)

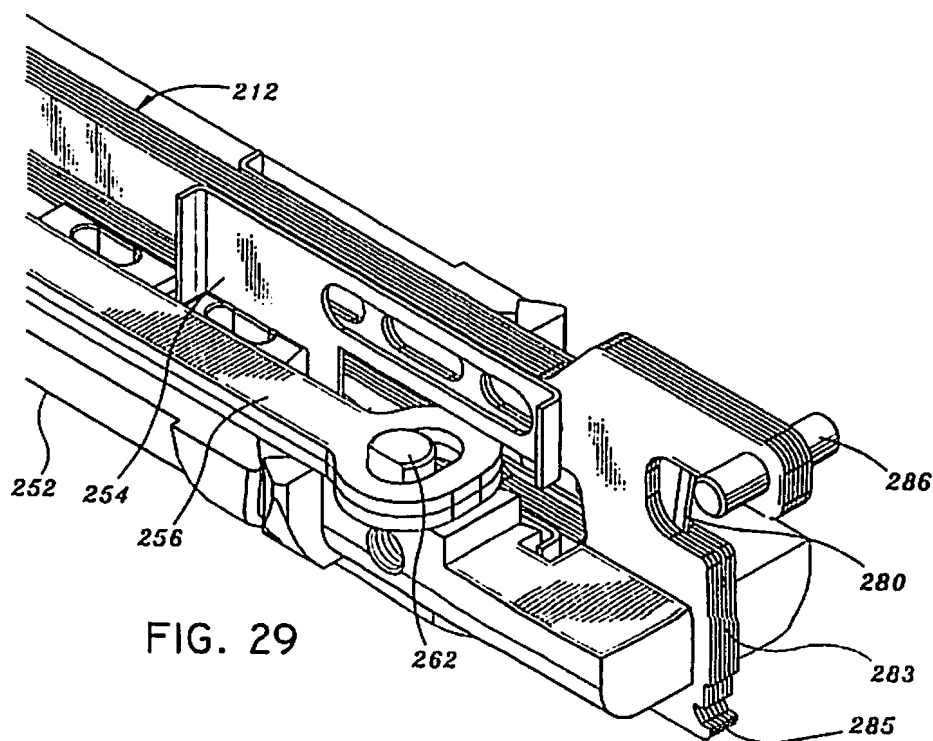


Fig. 6A



Milliman discloses a surgical stapling apparatus shown in FIGS. 1, 24 and 29 reproduced below which includes a tool assembly including an anvil assembly 20 and a cartridge assembly 18. A camming surface 209 is formed on a proximal end of anvil portion 204 of anvil assembly 20. The assembly includes a drive assembly 212 having a working head 268 which has a cam roller 286 (FIG. 29) which is movable axially to pivot anvil assembly 20 in relation to cartridge assembly 18 from an open position to a closed position. Working head 268 also includes a support member 287 which moves along cartridge assembly 18. Cam roller 286 and support member 287 engage anvil assembly 20 and cartridge assembly 18, respectively, to define the maximum tissue gap adjacent the location where stapling formation occurs. Thus, drive assembly 212 functions to both move the anvil assembly 20 to a closed position and to define a maximum tissue gap.





The previous version of Claim 32 (i.e., prior to the current amendment) recited a tool assembly including, *inter alia*, at least one pulley operatively associated with the dynamic clamping member to effect movement of the dynamic clamping member from the first proximal position to the second distal position.

In the Advisory Action, the Examiner noted that “Bolanos’ apparatus, at one point of the operation, will move the staple ejectors (28) from a proximal position to a distal position via the pulley mechanism (28 [sic; 48]), e.g., after the staples have been fired. Furthermore, the claim does not describe any specific structure to perform such function.”

By the present amendment, Applicants have amended Claim 32 such that Claim 32 requires, a tool assembly comprising, *inter alia*, “at least one pulley operatively associated with

the dynamic clamping member to effect movement of the dynamic clamping member from the first position to the second position to effect ejection of staples from the cartridge assembly."

That is, Applicants have amended Claim 32 to recite the function performed (i.e., the "ejection of staples from the cartridge assembly") as a result of the dynamic clamping member moving from the first position to the second position. The member that slidably engages the anvil and the cartridge assembly also effects ejection of the staples from the cartridge assembly.

With regard to the Examiner's comments in the Advisory Action relating to Bolanos, the staple ejectors 28 will move from a proximal position to a distal position "after the staples have been fired." However, Bolanos does not teach, disclose or even remotely suggest "at least one pulley operatively associated with the dynamic clamping member to effect movement of the dynamic clamping member from the first position to the second position to effect ejection of staples from the cartridge assembly," as required by amended Claim 32.

For at least this reason, Claim 32 is patentable under §103(a) over Fontayne in view of Milliman and in view of Bolanos and is in condition for allowance. Claims 33-36 and 39-41 depend from Claim 32. For at least the reasons discussed above with respect to Claim 32, Applicants submit that Claims 33-36 and 39-41 are also in condition for allowance.

New Claim 42 also depends from Claim 32 and provides a further distinction over the references of record. For at least the reasons discussed above with respect to Claim 32, Applicants submit that Claim 42 is also in condition for allowance.

Appl. No. 10/529,799
Amdt. Dated March 23, 2009
Response to Advisory Action mailed on February 19, 2009

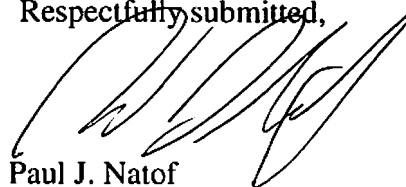
In view of the foregoing amendments and remarks, Applicants respectfully submit that all claims pending in this application, namely Claims 32-36 and 39-42, are in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner feel that a telephone or personal interview may facilitate resolution of any remaining matters, she is respectfully requested to contact Applicants' attorney at the number indicated below.

Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 21-0550. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 21-0550 therefor.

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